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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fifth session

SUMMARY RECORD OF THE 33rd MEETING IN 1990

Held at the Palais des Nations, Geneva,
on Thursday, 29 November 1990, at 3 p.m.

Chairman: Mr. KOUZNETSOV

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READEX

The meeting was called to order at 3.30 p.m.

ORGANIZATION OF WORK (agenda item 4) (continued)

1. The CHAIRMAN suggested that the members should continue to consider questions raised in connection with Mr. Sparsis' report to the Committee on the activities of the pre-sessional Working Group, and invited that expert to begin by giving a brief summary of the facts.

2. Mr. SPARSIS said that, in his opinion, the lists of issues prepared by the Working Group were too long and lacked uniformity; furthermore, the members of the Group did not always refer to the same problems in the lists and generally left the imprint of their personality on them by stressing their fields of competence and particular areas of interest. Those shortcomings were inevitable, however, since the Working Group did not have a well-defined mandate or agreed guidelines to which it could refer. If the Committee agreed on a set of general guidelines, the Working Group would be in a position to compare the report submitted by a State party with those guidelines and then formulate questions designed to fill the gaps noted and to obtain information that could supplement the report in such a way as to ensure that it met the Committee's requirements. It was therefore important for the Committee to consider as soon as possible the very comprehensive draft set of general guidelines which Mr. Simma had been requested to prepare, amend it, if necessary, and then adopt it.

3. Mr. SIMMA said that he, too, thought that the lists of issues would lack uniformity as long as the Working Group had no general guidelines. However, each list of issues related to a particular case; it was to some extent the reverse reflection of the report with which it dealt and of which it sought to fill the gaps concerning the nature and the amount of information given.

4. He had submitted the text of the draft guidelines he had prepared, together with amendments, to the secretariat for translation and publication. He requested the Bureau to expedite matters so that the draft could be considered at the beginning of the following week.

5. The CHAIRMAN said that the English text of the draft had been circulated on 27 November and that the secretariat had promised to do its utmost to ensure that the French and Spanish texts appeared as soon as possible.

6. Mr. ALSTON, referring to the question of the sources of information used by the Committee, recalled that, four years previously, when the Committee had met for the first time, its members had still been reluctant to make use of other sources of information than Governments themselves. In the meantime, however, economic, political and social circumstances in the world had changed radically and the Committee had begun to turn to specialized agencies to obtain information and to use United Nations documents, statistical studies, etc., while relying more systematically on the information provided by non-governmental organizations. It was none the less true that the Committee had to move even more resolutely in that direction and actively request information from all possible sources so that an appropriate list of issues on nearly all countries could be prepared. It must not be forgotten that a single source of information was never absolutely objective and that it was only by comparing information from various sources that one could hope to

learn the truth. The members of the Committee had always recognized that they could not accept the information provided by a Government without considering it carefully. It was clear that the Committee should also question the obvious or hidden purposes of any other source of information and the veracity of the facts reported by comparing them with data from various sources. If the Committee really wished to overcome the difficulties connected with information, it should indicate through official channels that it invited any organization, group or individual concerned with economic, social and cultural rights to submit to it, through the Bureau of the Committee or its secretariat, any data that might be of interest to it. Furthermore, it would be useful if the Committee could formally request the secretariat to collect in a file all information on a given country as soon as it had been decided at which session that country's report would be considered by the Committee. That would be a simple operation involving the collection of data which the secretariat would not have to evaluate. In that way, the Committee would be able to have better knowledge of the situations it wished to study. He therefore invited the members to consider those two measures and to refer to them in their report.

7. Mr. SPARSIS asked Mr. Alston whether, in suggesting that the Committee should request the secretariat to open a file for each country in which it would collect all information communicated to it, he meant that the Committee should contact the various organizations and agencies concerned in order to obtain information on a specific case which the pre-sessional Working Group was supposed to have considered.

8. Mr. ALSTON confirmed that the secretariat would have to be requested to take an initiative along those lines. It was true that the non-governmental organizations, inter alia, sent documents to the secretariat on their own initiative, but such documents were frequently lost and it would therefore be appropriate if the secretariat began by opening a file in which they would be placed. The secretariat itself might also collect some basic documents on the various countries, such as national constitutions, and it might consider the possibility of entrusting one of its members, on a case-by-case basis, with the task of asking intergovernmental organizations for sectoral information on a given country. It must be noted that the secretariat had hardly served the Committee effectively between its sessions, but members should recognize that it had not received any such mandate from the Committee. If the Committee had no objection, he would draft his proposal in writing and submit it to the Committee for adoption.

9. Mr. SPARSIS thought that the secretariat should be more than a mere letterbox and hoped that it would genuinely make the Committee's task easier by providing it with efficient information services. The Committee should insist on obtaining such services by emphasizing how important economic, social and cultural rights were, even if it was objected that its request was unacceptable because of the shortage of funds.

10. The CHAIRMAN invited the representative of the World Health Organization to take the floor.

11. Mrs. PINET (World Health Organization) said that, since WHO had files containing up-to-date statistical and other information on the health situation in every country, it should be quite possible to communicate the

relevant information to the Committee within the framework of co-operation between WHO and the Centre for Human Rights which would merely have to be expanded in order to ensure the preparation and follow-up of the Committee's meetings.

12. The CHAIRMAN thanked the representative of WHO for her offer and announced that the Committee would resume its consideration of agenda item 4 at a subsequent meeting.

CONSIDERATION OF REPORTS (agenda item 7)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Luxembourg (E/1990/5/Add.1)

13. At the invitation of the Chairman, Mr. Weitzel, Mr. Duhr and Mr. Thill (Luxembourg) took places at the Committee table.

14. Mr. WEITZEL (Luxembourg), introducing his country's initial report, thanked the Committee for having agreed to defer the introduction of the report so that the Government of Luxembourg would have time to provide replies to all the questions asked by the Committee's Working Group. He recalled that the International Covenant on Economic, Social and Cultural Rights, as well as the International Covenant on Civil and Political Rights and the Optional Protocol, had entered into force for Luxembourg only at a rather late date, on 18 November 1983. However, that must not be interpreted to mean that human rights questions were of little interest to Luxembourg, which had ratified European instruments in that field at a very early stage, particularly the European Convention for the Protection of Human Rights and Fundamental Freedoms on 3 September 1953. It was Luxembourg's earlier ratification of the European instruments that had prevented it from ratifying the International Covenants on Human Rights and the Optional Protocol promptly. In addition, it had had to compare the definitions and scope of the rights guaranteed by the various instruments to determine whether the European régime and the international régime were really compatible. However, the Council of Europe had begun to consider the problem as early as 1967 and had reached the conclusion that it should recommend that its member States should ratify the two International Covenants. During the legislative procedure for the adoption of the three international instruments, the Government of Luxembourg had noted in particular that, although European citizens enjoyed adequate guarantees in the human rights field, it was nevertheless in the interest of the States of the region to work at the world level in favour of respect for human rights and to support a system designed to protect those rights, the principles of which were universally accepted, and it was therefore not superfluous to ratify the International Covenants. The Foreign Affairs Commission of the Chamber of Deputies had taken a similar position.

15. It was to be noted that, while an individual could directly invoke the provisions of the European Convention before Luxembourg courts, that was not the case with regard to the International Covenant on Economic, Social and Cultural Rights. Accession to the Covenant had the sole effect of creating reciprocal commitments between States parties and of obliging them to enact legislation, where necessary. The Government of Luxembourg, for its part, had

taken all the necessary steps to guarantee the realization in the territory of the country of the rights set forth in the Covenant. In Luxembourg, moreover, the following 16 main human rights and fundamental freedoms were directly provided for in the Constitution: equality before the law, individual freedom, inviolability of the home, inviolability of property, freedom of opinion, freedom of the press, inviolability of correspondence, right to petition, freedom of religion, freedom of assembly, freedom of association, right to public education, freedom of languages, right to institute proceedings against public officials, right to work and to social security and freedom of trade and industry. As the Constitution had greater force than ordinary legislation, the State's primary obligation was to ensure respect for human rights.

16. Describing the country briefly, he said that the Grand Duchy of Luxembourg had been an independent State since the adoption of the Treaty of London of 19 April 1839 and that, since that date, its area had been 2,586 km^2. The territory was divided administratively into 126 communes and 12 cantons, spread over 3 districts. On 1 January 1989, Luxembourg's population had been 378,400 inhabitants, including 104,000 foreigners (27.5 per cent of the total). Luxembourgeois, French and German were the country's three administrative languages; Luxembourgeois continued to be the main vernacular language, while French, but also German, were widely used in administrative texts. With regard to the country's political organization, it was to be noted that a first organic act had entered into force on 12 October 1841 and that it had been replaced by the Constitution of 23 June 1848, which had been followed by a third Constitution on 17 October 1868. Beginning in 1919, a number of amendments had been made to the latter Constitution which had marked Luxembourg's transition to the modern age: henceforth, the independence of the three powers - legislative, executive and judicial - was ensured within the framework of a representative democracy taking the form of a constitutional monarchy.

17. The Grand Duchy's political structure respected the principle of the separation of the executive, legislative and judicial powers. The Grand Duke, as Head of State, enjoyed full executive powers and represented the State in its external relations. He played a key role in the exercise of legislative power and justice was administered in his name. His legal status was determined by the representative character of his functions, the constitutionality of his powers, the inviolability of his person and the fact that he was absolutely free from criminal and political responsibility.

18. The legislative power was exercised by the Chamber of Deputies whose 60 seats were filled by compulsory universal suffrage, every five years, by voting from a list or by proportional voting, according to voter density in the electoral districts. Seven parties had been represented in the most recent elections, which had taken place on 18 June 1989. Deputies enjoyed absolute freedom of expression in the Chamber and freedom from arrest and legal proceedings. The Chamber shared with the executive the right to initiate legislation, which it alone could adopt.

19. Under the Constitution, the Grand Duke was responsible for the organization and composition of the Government, but it had become customary that, after every election, the Grand Duke entrusted the leader of the dominant political party with the task of forming a government. The current

Government, the result of a coalition between the Social Christian Party and the Luxembourgeois Socialist Workers' Party, consisted of 10 Ministers and 2 Secretaries who shared 25 ministerial portfolios. The Ministers were responsible before the Chamber collectively and individually and usually resigned whenever the Chamber adopted a negative vote. Political censure, which was not provided for by the Constitution, had become part of the system.

20. The independence of the legislative power was guaranteed by the Constitution and maintained by the personal status enjoyed by judges as result of their method of recruitment, their appointment for life and the incompatibility of their functions with certain duties, as well as procedural guarantees such as the public nature of hearings and of the handing-down of sentences and the availability of remedies. Constitutionally, the ordinary courts had general jurisdiction in civil, commercial and criminal cases. In cases where the specific nature of the offence required a special court, the law provided for administrative courts which were responsible, under article 85 of the Constitution, for settling certain political or administrative disputes.

21. The economic, social and cultural characteristics of the Grand Duchy were the result of the careful balance which the successive Governments since the Second World War had struck to bring about both the expansion of the productive sector and the equitable distribution of the national product. Per capita GNP, which was 14,878 ECU, showed that the economy was healthy. In volume terms, annual growth had averaged 4.3 per cent between 1983 and 1989. In 1988, industrial output had accounted for 24 per cent of GNP and the tertiary sector, which was expanding, for 52 per cent. Prices had risen by 3.4 per cent in 1989. For the past 15 years, the foreign trade balance had been negative because of a rise in the cost of energy, a three-fold increase in household consumption and the growth in investments. That deficit was largely offset by the favourable balance of trade in services. Such economic health was due, at the foreign level, to a creative international climate that was favourable to the marketing of Luxembourg's national production and, at the national level, to adjustments that had been made according to changes in the volume and structure of domestic and foreign demand, as well as to the adoption of social measures which had brought about an equitable redistribution and the establishment of a climate of social peace, thereby promoting the increased productivity of enterprises.

22. Social progress had been achieved through the creation of new public services and jobs. Luxembourg had had 130,000 workers in 1974 and 166,200 at the end of 1989, with 36,000 in industry and 79,000 in commercial services. At the same time, the number of non-wage-earning members of the working population had slowly but steadily decreased. The expansion of wage-earning employment was due to the increase in the number of cross-frontier workers which had more than doubled in less than 10 years, to the increasing amount of part-time work and to the growth of female employment, which had stood at 23 per cent in 1970 and had reached 34 per cent of the total number of jobs in 1989 and even 50 per cent in some sectors.

23. Unemployment, which had never affected more than 1.8 per cent of the active population in the 1980s, currently stood at 1.4 per cent and was caused by an imbalance between supply and demand rather than by the lack of jobs. Wages had continued to increase, particularly in 1989, as a result of improvements in many collective labour agreements and salary indexing. The

minimum social wage had been increased by 3.5 per cent. Wages in industry as a whole had risen by 5.2 per cent compared with 1988. The Government had taken steps to ensure that the increase strengthened the social fabric and also benefited the most disadvantaged sectors of the population.

24. After briefly describing Luxembourg's political and economic characteristics, he said that he would try to supplement the initial report submitted by his Government on 26 September 1988 and requested that such supplementary information should, if possible, be published in an addenda to the report. The Government of Luxembourg made efforts to ensure that its expenditure on culture and science increased at the same rate as its other expenditures as a whole. Funds earmarked for the Ministry of Cultural Affairs, which had been 454 million francs in 1989, had risen to 536 million francs in 1990 and would amount to 652 million francs in 1991. Those funds were intended, inter alia, to maintain the cultural infrastructure and disseminate culture and science. Moreover, in anticipation of 1995, when Luxembourg would become a European city of culture, the Grand Duchy was building two museums, one of which was for contemporary art, a national literature centre and a national cultural practices centre. The culture of the linguistic minorities, Portuguese and Italian, in particular, had not been forgotten. There were two Portuguese-language radio stations in Luxembourg, Italian and Portuguese language and culture courses at the Luxembourg University Centre, special departments in certain municipal libraries and measures in favour of folklore groups. The rights provided for in article 15, paragraph 1 (c), of the Covenant were guaranteed by Luxembourg legislation, particularly by the following: Act of 13 July 1973 adopting the Benelux Convention and introducing the Benelux Uniform Law on Designs or Models; the Act of 29 March 1972 on Copyrights and Implementation Regulations, and the Act of 23 September 1915 on the Protection of Performers, Producers of Phonograms and Broadcasting Organizations.

25. Luxembourg had also ratified the revised International Berne Convention for the Protection of Literary and Artistic Works, the Universal Copyright Convention of 6 September 1952, the European Agreement of 15 December 1958 concerning Programme Exchanges by means of Television Films and the International Convention of 26 October 1961 on the Protection of Performers, Producers of Phonograms and Broadcasting Organizations. In respect of patents and inventions, at national level, Luxembourg had adopted the Act of 30 June 1880 on Invention Patents and the Ministerial Implementing Decree, the Grand-Ducal Decree of 13 October 1945 supplementing legislation on invention patents and the Act of 8 July 1967 on the disclosure and use of inventions and manufacturing secrets relating to the defence of the territory or the security of the State, the Act of 7 December 1966 adopting the Benelux Convention of 16 March 1962 and introducing into national legislation the Benelux Uniform Act on Marks, the Protocol introducing an implementation regulation and the revised Madrid Agreement concerning the International Registration of Marks, the grand-ducal regulation of 12 January 1977 determining the professional qualifications required for access to the profession of industrial property adviser and the Paris Convention for the Protection of Industrial Property, revised in Stockholm. The Act of 19 March 1987 organized research and technological development in the public sector, as well as the transfer of technology and scientific and technical co-operation between the private and public sectors. In the field of international scientific and cultural co-operation and contacts, Luxembourg had signed 15 cultural agreements and was preparing to conclude three more such agreements.

26. The CHAIRMAN reminded the Committee of the provisions which it had adopted at its fourth session for the consideration of global reports and which were contained in paragraph 31 of its report.

27. Mr. WEITZEL (Luxembourg), replying to issues in the written list on which he had not yet provided information in his oral statement, said that most of the human rights recognized in the Covenant were incorporated in the Constitution. Since the European Convention on Human Rights was directly applicable to Luxembourg, national courts could hear cases involving violations of most of the human rights included in the Constitution and also provided for under the European Convention. Complaints could also be brought before the two bodies set up by the European Convention.

28. The International Covenant on Economic, Social and Cultural Rights had been published in the Mémorial, which was the Journal officiel of Luxembourg, and everyone could obtain copies of the report, in particular journalists who wished to bring it to the attention of the public at large.

29. With regard to the legal status of the Covenant, as Luxembourg had opted for the rigid constitutional system, international treaties - and therefore the Covenant - were above the Constitution in the legal hierarchy. He nevertheless recalled that, in accordance with article 37 of the Constitution, international treaties concluded by Luxembourg became an integral part of internal law as soon as they were regularly approved by the legislative power, which had to adopt an act to that effect, and that they were published in full in the Mémorial, the Journal officiel of the Grand Duchy. With regard to their status in internal law, international treaties became applicable in the internal legal order without it being necessary to change them in order to ensure their application as internal legal standards, provided that their provisions were drafted in such a way that they were directly self-executing. In order to determine the direct applicability of treaties, which Luxembourg courts appeared to regard as normal, account must be taken of the intentions of the parties and the object and purpose of the provisions of the treaties. The Luxembourg courts had clearly shown in countless cases that they had a monistic concept of the international and national legal order and that they regarded international treaties as being directly self-executing. There were only two cases in which a Luxembourg court had contested the directly operative nature of a provision of a treaty. The courts recognized that they had not only the power to apply treaties, but also the right to interpret their provisions in order to settle disputes brought before them. It should also be recalled that, since 1950, the Luxembourg courts, including the Supreme Court of Appeal, had declared that international treaties took precedence over domestic legislation, even subsequent legislation. In the event of a conflict, the courts set aside the domestic legislation in favour of the treaty. Since 1980, various courts had not applied legal texts which they considered to be contrary to the provisions of the European Convention on Human Rights. As to the International Covenant on Economic, Social and Cultural Rights, it was clear from its object and purpose that its provisions were not directly applicable in internal law. Thus, under article 2, paragraph 1, of the Covenant, States parties to the Covenant were bound only to recognize the objective of the full realization of the economic, social and cultural rights enshrined in the Covenant. At the time of the adoption of the Covenant, the Government, the Council of State and the Foreign Affairs Commission of the Parliament had clearly stressed that the instrument contained no provision that could be invoked directly by individuals and that it committed only the Contracting Parties.

30. Replying to question (3) in section I of the list of issues to be taken up in connection with articles 1 to 15 of the Covenant, he said that the migrant population accounted for 27.5 per cent of the total population and was constantly increasing. As at 1 January 1990, there had been 34,000 Portuguese, 20,400 Italians, 12,800 French, 9,400 Belgians and 9,000 Germans in Luxembourg. Most foreigners lived in the south and centre of the country where most of the industries were located. In addition, 8,000 European civil servants lived in Luxembourg.

31. Turning to the questions relating to the implementation of articles 13 to 15 of the Covenant, he said that about one third of the children enrolled in primary school were foreigners, mainly of Portuguese origin. The children of migrant workers usually attended the same schools as Luxembourg children. They had the same advantages and the same opportunities. However, they had difficulties because instruction in primary schools, was given in three languages, Luxembourgeois, French and German. Measures had been taken by the Government and local authorities to solve that problem. First, all children, both foreign and Luxembourgeois, had to attend a kindergarten for at least one year before entering primary school. Secondly, special programmes had been developed to help children learn Luxembourgeois and German. Lastly, special courses had been set up for foreign primary school pupils who could receive special instruction in German or in their mother tongue while attending the same classes as Luxembourgeois children. Those extra courses were increasingly being integrated into the normal curriculum. The Government authorities were considering other measures to promote the integration of foreign children. In that connection, he read out a circular entitled "School attendance by foreign children", published by the Ministry of National Education in April 1990. Pre-school education emphasized acquiring a working knowledge of Luxembourgeois. To familiarize children with the national language, teachers could obtain teaching aids from the Higher Institute of Teaching Studies and Research. To give their work an intercultural dimension, they could use teaching materials developed by the Centre for Intercultural Documentation and Social Activities including Portuguese, Spanish and Italian stories translated into Luxembourgeois. Activities to train teachers and make them more aware of intercultural education were available so that suitable curricula could be applied. The aim was to make the presence of foreign children an added source of knowledge and development for the class as a whole. The resources of the Centre for Intercultural Documentation and Social Activities were to be strengthened. Teachers could already obtain information, teaching materials and other technical aids on the cultures of origin of the children of migrant workers and on migration in general. At the primary school level, one particular method of teaching German which had been tried out in some first-year classes during the 1990-1991 school year would be made widely available in 1991-1992. The method was to make children in the same class work in small groups with teaching materials geared to the special needs of foreign children and Luxembourgeois children whose German was weak. The material developed for foreigners emphasized direct communication. In addition, extra courses could be given to speed up language learning. In the first year, those courses could be held in the late morning and, in the other classes, they were part of optional courses. Where necessary, the pupils concerned could be excused from certain courses. If, despite all those measures, foreign children did not achieve the required level at the end of the sixth year, they could enter a special class to bring them up to that level. Pending the provision of more appropriate materials, the teaching staff could use foreign text-books to teach German to the children of migrant

workers. Instruction in their mother tongue and culture enabled foreign pupils to maintain links with their country of origin. Such instruction could be given twice a week. Some introductory mathematics, natural science, history and geography courses could be given in the mother tongue of foreign children.

32. Replying to the question on the reasons for cuts in public expenditure on education, he said that education's share of the budget had dropped from 14.62 per cent in 1982 to 10.77 per cent in 1983 because of the 10 per cent decline in special service allowances, the suspension of the mechanism linking salaries to the cost-of-living index and the reduction of the funds allocated for school buildings and the purchase of teaching materials.

33. Referring to Luxembourg citizens pursuing university or post-graduate studies abroad, he said that some 2,500 students were currently studying abroad, mainly in France, Belgium, the Federal Republic of Germany, Switzerland, Austria and the United Kingdom. In some foreign universities, they benefited from special conditions of admission. The Government of Luxembourg also gave them financial assistance in the form of loans or scholarships.

34. In reply to the question about special schools for handicapped children, he said that Luxembourg had established a special education system which also applied to handicapped children. There were 240 psychologists, specialist teachers, teachers and assistant teachers for every 1,000 handicapped children and adolescents. The costs were borne by the State.

35. Mr. THILL (Luxembourg), giving information on the implementation of articles 6 to 9 of the Covenant, said that unemployment was defined as the fact of not having work for involuntary reasons. Since 1 June 1987, there had been unemployment legislation that was applicable to workers who had lost a regular full-time job (40 hours a week) or a part-time job (at least 20 hours a week). To be eligible for unemployment benefits, a worker had to have lost his job, to have a monthly income of less than 150 per cent of minimum social base wage, to be domiciled in Luxembourg, to be aged between 16 and 64 (the legal retirement age being 65), to be ineligible for an old-age or disability pension and to be fit for work, available on the employment market and prepared to accept a suitable job. Anyone whose capacity for work was reduced by two thirds was considered unfit for work. Unemployed persons also had to complete administrative formalities.

36. Luxembourg had not created jobs for less skilled employees. Since the trend was rather towards an increase in the number of jobs requiring more skills, Luxembourg considered it preferable to improve the vocational training of less skilled workers so that they could take jobs in the service sector or develop new skills.

37. Replying to the question concerning the unemployment problems generated by the crisis in the iron and steel industry, he explained that the economy of Luxembourg was based primarily on steel. That sector had started to decline in the early 1970s and the Government had had to take many measures to avoid an upsurge in unemployment. A modernization and rationalization programme had been set up and measures taken to maintain employment. To that end, an anti-crisis division had been set up within the steel companies. The Act of 8 June 1979 had authorized the use of employment funds to meet the expenditure

on wages and salaries resulting from the maintenance of the contracts of workers in the iron and steel industry. On 26 July 1975, an Act had been adopted allowing the Government to create special work projects in the general interest to employ surplus manpower productively. The Government therefore determined which sectors of the economy had economic problems that entitled them to apply to benefit from that measure and established the schedule for such work projects on the basis of proposals by the various Ministries. Wage-earners could thus be "detached" to communes to carry out work that was in the general interest. Managers who wished some of their staff to do such work had to inform and hear staff representatives, joint works committees and, where necessary, trade union organizations. A programme to retrain workers in the iron and steel industry whose jobs were at risk had been in existence since 1977. Vocational training courses were organized by the Ministry of National Education within the steel industries or in approved establishments. The employer had to pay workers who followed those courses an allowance equivalent to their former wages and guarantee the maintenance of the labour contract during the training period, and later on, a job corresponding to the training received.

38. As from 1979, an income guarantee system for workers who changed enterprises had been set up to encourage iron and steel workers to leave the sector. Under that system, wage-earners in the iron and steel industry who transferred to another enterprise and were redeployed in a job that was less well paid than the previous one could claim a temporary re-employment allowance. In addition, the Budget Act of 20 December 1982 had established a special disability allowance, a temporary measure also designed to speed up the departure of surplus manpower in the steel sector. To be eligible for that allowance, a steel worker had to be over 50 years of age, not be in receipt of pre-retirement benefits and no longer be able to exercise the last occupation he had practised. Lastly, in 1987, an expanded pre-retirement scheme had been set up in Luxembourg with the twofold aim of implementing a policy of solidarity between generations and bringing about a quantitative adjustment of manpower in the iron and steel industry.

39. Replying to the Committee's question concerning measures taken to reduce unemployment among young people and increase their chances on the labour market, he said that, under a 1978 grand ducal regulation, vocational training, redeployment and general educational courses had been organized for young unemployed persons and workers whose jobs were at risk. Those training programmes, which lasted no longer than nine months, enabled young persons to acquire the theoretical and practical foundations of a skill, particularly in the handicrafts sector, or, in the case of the general education courses, to prepare for a career in the service sector. In implementation of another 1978 grand ducal regulation, the Ministry of National Education was also organizing vocational guidance and introduction to work courses for young persons who had finished their compulsory period of schooling.

40. The Committee had asked the Government of Luxembourg what had been done to reduce unemployment among women and whether there were increased opportunities for part-time employment. The level of unemployment, which was fairly low in Luxembourg, was no higher for women than for men. Nevertheless, in practice, women had to stop work when they had children. To cope with the problem of unemployment among women, a bill meeting the demands of the Committee on Women's Labour was being prepared. Meanwhile, an attempt was made to reorganize working hours and, to that end, to introduce and regulate part-time work on the basis of the already existing régime in the civil service.

41. Replying to the Committee's question on the employment of handicapped persons, he explained that an Office for the Placement and Occupational Rehabilitation of Handicapped Workers had been set up under an Act dating from 1959 in order to ensure the occupational and social reintegration of handicapped persons. To meet increasing needs in that area, a bill was being studied that would improve the operation of the Office and increase its staff, increase the quota of handicapped workers that public sector establishments and enterprises and large companies in the private sector had to hire and establish a legal framework for Government assistance to public and private bodies for training facilities and special jobs for handicapped persons.

42. In reply to the Committee's question on how the minimum wage was determined, he said that the provision of article 7 of the Covenant stating that all workers had the right to the enjoyment of just and favourable conditions of work and particularly to a decent living for themselves and their family was reflected in practice by the 1973 Minimum Wage Act (see E/1990/5/Add.1, para. 9). That Act, which applied to all occupational sectors and all branches of the economy, ensured that every person of normal physical and intellectual capacity, without distinction as to sex, received a minimum wage that was indexed on the basis of variations in the cost of living. Moreover, the 1965 Act on collective wage agreements (idem., para. 10) provided that any collective agreement had to provide for additional pay not only in the case of the minimum social wage, but also for difficult, dangerous and unhealthy work, as well as an escalator clause under which remuneration was adjusted to variations in the cost-of-living index. In other words, any 2.5 per cent variation in the half-yearly average of that index was automatically reflected in an adjustment of the remuneration set in the collective agreement. In addition to the minimum social wage, Luxembourg had a minimum guaranteed income that was not dependent on the exercise of an occupation.

43. Replying to the Committee's request for an explanation of the decline in real wages in industry, he said that the system of the automatic adjustment of the minimum social wage according to variations in the cost-of-living index made a decline in real wages virtually impossible. There could be no such decline unless a worker changed jobs and engaged in an activity that was less well paid.

44. In reply to the Committee's question whether wage increases were regulated only by law or were also subject to collective bargaining, he referred again to the 1965 Act on collective wage agreements. As stated in the initial report (E/1990/5/Add.1, para. 24), Luxembourg had ratified the Right to Organise and Collective Bargaining Convention No. 98 and the Freedom of Association and Protection of the Right to Organise Convention No. 97 of the International Labour Organisation (ILO).

45. Referring to the Committee's question about the function of the National Conciliation Office, he explained that, in the event of a collective labour dispute, Luxembourg legislation provided for a compulsory conciliation procedure. In other words, it was illegal to start a strike without having first referred the dispute to the National Conciliation Office, a joint body composed of the Minister of Labour or, in practice, his representative, three representatives of employers' organizations and three trade union representatives. For each particular dispute, the joint body was assisted by

one or more representatives of employers and wage-earners in the occupation or the enterprise concerned. Following negotiations, the National Conciliation Office submitted a proposal to the parties concerned. Acceptance of that proposal by the parties could lead to the conclusion of a new collective agreement, while a refusal could lead to arbitration.

46. As to the lawful reasons for a strike, Luxembourg legislation prohibited any strike which was of a political nature or based on reasons other than those of an occupational kind. A strike was therefore lawful only as the last possible means of obliging employers to accept wage-earners' demands.

47. As far as the right of public servants to strike was concerned, all public servants, State employees and public establishments under the direct control of the State had the right to strike, with the exception of the following: high-ranking officials, envoys extraordinary, plenipotentiary ministers and the heads of diplomatic missions, members of the judiciary, heads of departments, heads of educational establishments, judicial and prison officials, members of the police force, medical staff of the custodial services and security officials and staff. Disputes in the public service had to be submitted to conciliation and, if that failed, to a mediation procedure. If those two procedures ended in failure and if the staff then decided to go on strike, advance notice had to be given of the work stoppage which had to reach the President of the Government 10 days before the strike began. The legislation governing the right to strike in the public service also provided for personal requisition orders. Criminal or disciplinary penalties and fines were also provided for in the case of non-observance of that legislation.

48. Referring to the question of how Luxembourg's old-age pension scheme dealt with the problem of divorce, he said that, under previous legislation, if a wife in a divorce case was judged to be the guilty party, she could not enforce any claims against her ex-husband, but that implied punishment had totally disappeared from the current legislation on social security. Accordingly, on the basis of the principle of equality of treatment between men and women, the right to receive a survivor's pension was now accorded to a divorced spouse whether or not he or she had been the guilty party, provided that he or she had not contracted another marriage before the death of his or her ex-spouse. The survivor's pension of a divorced spouse represented a proportion of the normal survivor's pension and was calculated on the basis of the deceased insured's period of contribution during the marriage in relation to the total period of affiliation. If there were several surviving divorced spouses, the survivor's pension was divided between the beneficiaries in proportion to the duration of the various marriages.

49. In reply to a further question by the Committee, he said that Luxembourg legislation did not at present provide for a division of pension entitlements when one of the divorced spouses had not acquired rights to an old-age pension prior to the divorce. Two bills on the subject were being studied, but it was a difficult problem to resolve in practice. For an old-age pension to be granted, contributions had of course to be paid. However, it would be difficult to ask divorced husbands to pay the necessary contributions to provide their ex-wives with an old-age pension. Most of them would not have the resources to do so in any case.

50. Replying to the question whether long-term unemployed women and other groups were disadvantaged by any rules requiring a minimum time of insurance, he said that persons who no longer had the right to an unemployment benefit received a minimum guaranteed income which could be drawn without having paid any contributions and even without giving proof of a previous occupational activity.

51. Moreover, to facilitate the re-integration into the labour market of wage-earning mothers who had stopped work to look after their children, the Act of 3 July 1975 provided that, following her maternity leave, a woman could decide not to start work again, without having to pay a penalty for breach of contract, and then keep the right for a period of one year to priority re-employment in a job corresponding to her qualifications, thus retaining the benefit of all the advantages she had acquired before her departure. In addition, a "baby year", which it was proposed to extend to two years, had been introduced in the social security pension scheme. If a woman stopped her occupational activity during one year to bring up her child, that year was considered as a period of affiliation to the retirement pension scheme, contributions being paid by the State. After their maternity leave, civil servants had the right to one year's leave without pay and might also obtain a longer period of leave without pay upon request. Likewise, civil servants could ask for leave to work half time (for a maximum of six years) after their maternity leave.

The meeting rose at 6 p.m.